

Rev. AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

WHARTON CAPITAL PARTNERS LTD.
and WHARTON CAPITAL MARKETS LLC

V.
XSUNX, INC.

SUMMONS IN A CIVIL ACTION

CASE NUMBER:

08 CV 0056

TO: (Name and address of Defendant)

XsunX, Inc.
65 Enterprise
Aliso Viejo, CA 92656

JUDGE STEIN

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Jeffrey A. Udell, Esq.
Olshan Grundman Frome Rosenzweig & Wolosky LLP
Park Avenue Tower
65 East 55th Street
New York, New York 10022

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

CLERK

Wanda Quintero

(By) DEPUTY CLERK

JAN 03 2007

DATE

Form 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me⁽¹⁾

DATE

1/14/2008

4:08 PM MST

NAME OF SERVER (PRINT)

Christopher Lacey

TITLE

Private Process Server

Check one box below to indicate appropriate method of service

☐ Served personally upon the defendant. Place where served:☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left:

☐ Returned unexecuted:☒ Other (specify):

By handing to and leaving with M.A. Littman aka Michael A. Littman, Registered agent for xsunx, inc, at his usual place of business 7609 Balston Rd Arvada, CO 80002 in the county of Jefferson.

STATEMENT OF SERVICE FEES

TRAVEL

SERVICES

45.00

TOTAL

\$0.00

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on

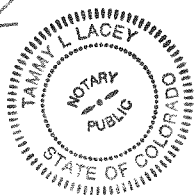
1/14/2008

Date

Signature of Server

8774 Yater Dr, Westminster, CO 80031
Address of Server Ste 260

Notary



10/23/2011

Comm. exp.

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.